

From: Tom Dilligan (091)Tall Mini-God(093)
To: Microsoft ATR
Date: 1/27/02 11:13pm
Subject: Microsoft Settlement

To whom it may concern:

I have been a software developer and watcher of the computer industry for the last 18 years. In that time I have developed software for a large array of systems from home computers (with both non-Microsoft and Microsoft operating systems) and for large mainframe systems. I am currently employed as a Senior Systems Developer for Industrial Light + Magic.

I would like to comment against the Microsoft Settlement of the Anti-trust lawsuit against them, pursuant to the Tunney Act. I oppose the settlement in the current form for the following reasons.

The proposed settlement largely consists of donations to schools. This will do nothing to hinder Microsoft's actions in the market place. If anything, this will increase Microsoft's market share. None of the reports that I have read state that Microsoft will include support contracts for the software that they are donating Software without support costs nearly nothing. The costs of producing software falls primarily into two categories: development and support. The costs of distributing (CD-ROMS, documentation, packaging) are tiny in compared with the development costs and support costs. In the case of Microsoft products, no part of the purchase price goes to support costs, because Microsoft support is done through a pay per incident. Calling Microsoft for any support reason will cost \$50.00 or more per call, unless a support contract has been purchased.

If no support contracts are provided, and no support is provided as part of the purchase price, then it can be argued that the entire purchase price is going towards the development of new Microsoft software. The development costs of the software have already been recaptured, as evidenced by Microsoft's 36 billion dollar cash reserves. This cash reserve is nearly twice that of General Motors, a company that reports seven times the sales of Microsoft.

These cash reserves allow Microsoft to come into any marketplace and give away (dump) software until they have forced any competitors out of the market. Clear examples of this happening in the past include the internet browser software Netscape. In the case of Netscape, Microsoft was very successful in giving away their browser software, and in fact forcing people to use it by making it an integral part of the user experience. Microsoft included the server software with the 'server' versions of Microsoft's operating systems (i.e. Windows NT, Windows

2000). Netscape only had the revenue generated by their browser and server products to generate income. With Microsoft effectively giving the software away, it became increasingly difficult for Netscape to function as a business, eventually getting purchased by what is now America Online / Time Warner.

Microsoft's business practice of taking serious losses to penetrate into the market place can be easily seen right now with Microsoft's introduction of the X-Box gaming system. Microsoft has never competed in the home videogame console market. The retail price of an X-Box is approximately \$350.00. Most analysts have estimated the actual cost of production to be closer to \$500.00. In any sort of trade arrangement, this would be considered 'dumping'. Sony, Nintendo, and Sega (Microsoft's competition) all sell their consoles at close to cost, but do not actually lose money.

Microsoft has engaged in highly restrictive licensing practices that has made it 'unfeasible' for OEM computer manufacturers (Dell, Gateway, IBM, ect...) to support non-Microsoft operating systems. This has forced free and / or alternative operating (i.e. Linux, FreeBSD, OpenBSD, BeOS) into the domain of the technical hobbyist, which is an extremely small portion of the operating system market.

Microsoft delays or suppresses publication of interfaces, protocols, and file formats that would be useful to third party developers. These interfaces, protocols and file formats are all available to Microsoft programmers, but are (in general) not available to non-Microsoft programmers. This gives Microsoft an insurmountable edge in that they can easily write software that interacts with other Microsoft software, but non-Microsoft developers are unable to write software with tight integration to Microsoft products.

Microsoft is notorious for taking industry standard interfaces, protocols, and file formats, changing or extending them slightly before integrating them into Microsoft products. This allows them to proclaim 'industry compliance', but they will rarely publish the extensions that they have made to the interfaces, protocols, and file formats. This has two unfortunate effects. The first is similar to the point raised above: only Microsoft can effectively use the extended interfaces, protocols and file formats. The second is that by not announcing or documenting extensions, they have effectively made the interfaces (or protocol, or file format) Microsoft's, as nobody can extend or change the interface without potentially interfering with Microsoft's extensions (because nobody outside of Microsoft knows what Microsoft is doing).

In light of this, clearly more punitive actions must be applied to Microsoft to force it into a position where it cannot simply walk into any market and crush it by sheer financial clout. I would propose the following as the sort of steps that must be taken to limit Microsoft's

monopoly power.

Microsoft's cash reserves must be drained. This would involve a penalty (or stock dividend) in the range of 33 billion dollars, and would bring Microsoft's cash to gross income ratio into the same range as other large companies (such as General Motors).

Microsoft should adopt a simplified, non-restrictive licensing policy for OEM computer manufacturers. Failing this, an outright ban should be made on bundling non-free software with computers.

While a split of the Microsoft corporation is desirable. It is very difficult to define a dividing line. I would propose a remedy of modularizing of the software packages produced so that each application would have a specific task (i.e. word-processing, spreadsheet, illustration, painting, ect...) as opposed to massive conglomerations of product (i.e. Microsoft Office). The only contact that the teams would have would be via publicly published documentation on interfaces, protocols and file formats. This would allow for outside manufacturers to tightly integrate their software with Microsoft's products.

These are a small sampling of the concerns that I have with the proposed settlement between the Department of Justice and Microsoft. Consider this my plea to reconsider the proposed settlement, and work to make it sufficiently strong as to actually stop Microsoft in their quest to completely dominate the computing industry.

Thomas A. Dilligan
San Rafael, CA.